

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID ARTHUR BROWAND,

Petitioner,

v.

CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION,

Respondent.

No. 2:21-cv-0184-JAM-EFB P

ORDER

Petitioner is a state prisoner proceeding pro se with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On October 14, 2021, the court dismissed the petition without prejudice for containing unexhausted claims, but gave petitioner leave to file an amended petition containing only exhausted claims and then seek to stay the case while he presented the unexhausted claims to the California Supreme Court. ECF No. 19.

On October 28, 2021, petitioner filed in this court a document bearing the heading “In the Supreme Court of the State of California” and asking that court to review his unexhausted claims. ECF No. 20. It is unclear why petitioner filed the document in this court. The court informs petitioner that, if he has not done so already, the document is properly filed with the California Supreme Court and not this court.


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1 On November 10, 2021, petitioner filed a document bearing no caption, but with the  
2 heading: "Petitioner: Amend to file containing only exhausted claims." ECF No. 21 at 1. The  
3 document lists petitioner's currently exhausted claims and asks the court to grant the writ with  
4 regard to those claims. It does not, however, contain any argument or factual bases for the  
5 claims. An amended pleading supersedes all prior pleadings and must be complete within itself  
6 without reference to prior pleadings. *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir.  
7 1997); E.D. Cal. L.R. 220 ("[E]very pleading to which an amendment or supplement is permitted  
8 . . . shall be retyped and filed so that it is complete in itself without reference to the prior or  
9 superseded pleading. No pleading shall be deemed amended or supplemented until this rule has  
10 been complied with.").

11 As it stands, petitioner's amended petition does not stand on its own without the facts  
12 provided in the original petition. Rule 2(a)(2), Rules Governing § 2254 Cases (a habeas petition  
13 must state the facts supporting each asserted ground for relief). Accordingly, the court will grant  
14 petitioner 21 days from the date of service of this order to file an amended petition containing  
15 only his exhausted claims that is complete within itself and contains the facts supporting those  
16 claims.

17 So ordered.

18 DATED: December 23, 2021.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE